

Based upon both claimant's testimony and medical records presented, the Appeals Board finds that claimant, for preliminary hearing purposes, has established that she sustained personal injury by accident arising out of and in the course of her employment with Beverly Rehab Services during the period of October 14 through October 29, 1996.

Although claimant initially sustained injury in February 1996 while working for Christopher Manor, claimant's symptoms had resolved by April 1996 and she was released to return to work without restrictions. The physical activities, including regularly lifting patients, that claimant performed during the period of October 14 through October 29, 1996, while working for Beverly Rehab Services as a CNA caused claimant to experience pain and numbness in her arms and hands and pain in the neck and mid-back. The Appeals Board finds that claimant's symptoms are from the October 1996 injury and are somewhat different and somewhat more severe than those she experienced in February 1996. When considering the entire record, the Appeals Board finds claimant sustained, at the very least, a temporary injury or aggravation in October 1996 for which she is entitled to receive workers compensation benefits.

Claimant provided Beverly Rehab Services with timely notice of accident. On October 29, 1996, claimant left a note advising a supervisor of the severe pain and numbness in her hands and other symptoms. In that note, claimant also stated, "I don't know if I have lifted someone wrong or what or if it is just that I am lifting again."

Although claimant did not and could not identify a specific incident that caused her increased symptoms, she complied with the intent of the notice statute, K.S.A. 44-520. The information provided Beverly Rehab Services placed it on notice that claimant may have re-injured her neck and back at work and, therefore, provided the employer an opportunity to conduct further investigation. Beverly Rehab Services is hard pressed to argue that claimant's October 29, 1996, note did not place it on notice of a potential work-related injury.

Beverly Rehab Services and its insurance carrier also requested the Appeals Board to review the Administrative Law Judge's decisions to designate an authorized treating physician and to award temporary total disability benefits. Because the Administrative Law Judge had the authority to enter both orders and did not exceed such authority, those decisions are not reviewable under K.S.A. 1996 Supp. 44-551. Neither are they reviewable under K.S.A. 1996 Supp. 44-534a because those issues are not jurisdictional and specifically listed in that statute as being subject to review from a preliminary hearing.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated February 20, 1997, entered by Administrative Law Judge John D. Clark should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of April 1997.

BOARD MEMBER

c: Brian D. Pistotnik, Wichita, KS
 Stephen P. Doherty, Kansas City, KS
 Scott J. Mann, Hutchinson, KS
 John D. Clark, Administrative Law Judge
 Philip S. Harness, Director